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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,700	07/06/2001	Keith D. Allen	R-616	3949
7590	10/22/2003	EXAMINER		
DELTAGEN, INC.		PARAS JR, PETER		
1003 Hamilton Avenue		ART UNIT		
Menlo Park, CA 94025		PAPER NUMBER		

1632

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/900,700

Applicant(s)

ALLEN, KEITH D.

Examiner

Peter Paras, Jr.

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 24-29.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: new claims 30-33 require further consideration and possibly raise issues of new matter for the following reasons: the claims require deletion of nucleotides 441-582 of the endogenous CRFR2 gene however the specification has only provided support for deletion of nucleotides 441-582 in the context of the sequence set forth in SEQ ID NO: 1, which is a cDNA sequence while the claim requires deletion of the nucleotides from an endogenous CRFR2 gene, which is a genomic sequence. The instant specification has not provided a correlation between the numbering of the CRFR2 cDNA sequence and the CRFR2 genomic sequence such that it is understood how bases 441-582 relate to the genomic sequence.

Continuation of 3. Applicant's reply has overcome the following rejection(s): if entered Applicant's reply would have overcome the rejection under 35 U.S.C. 112, 2nd paragraph.

Continuation of 5. does NOT place the application in condition for allowance because: claims 24-29 merely require disruption of an endogenous CRFR2 gene. It is maintained that Coste, Bale, Kishimoto, and Lee all teach transgenic mice whose genomes comprise disruption of an endogenous CRFR2 gene, wherein the mice do not produce any CRFR2, as set forth on pages 4-13 of the Office action mailed on 5/20/03. It is further maintained that the claimed mouse and the mice of Coste, Bale, Kishimoto, and Lee appear to be the same structurally and all phenotypes resulting from disruption of the CRFR2 gene are inherent to the mice of Coste, Bale, Kishimoto, and Lee. As set forth in the Office action mailed on 5/20/03 Applicant has the burden of showing how the claimed mouse and the mice of Coste, Bale, Kishimoto, and Lee differ. Accordingly, the previous rejections are maintained for the reasons of record. It is noted that the limitations of new claims 30-33 may not be anticipated by Coste, Bale, Kishimoto, or Lee but may be subject to other rejections as discussed in box 2 above.

PETER PARAS
PATENT EXAMINER

